



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R09-OAR-2014-0612; FRL-9925-32-Region-9]

**Determination of Attainment of the 1-Hour Ozone National Ambient Air Quality Standard
in the Southeast Desert Nonattainment Area in California**

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is determining that the Southeast Desert nonattainment area has attained the 1-hour ozone National Ambient Air Quality Standard. This determination is based on complete, quality-assured, and certified data for the most recent three-year period (2011-2013). Preliminary data available through December 2014 are consistent with continued attainment.

DATES: This final rule is effective on **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: The EPA has established a docket for this action, identified by Docket ID Number EPA-R09-OAR-2014-0612. The index to the docket for this action is available electronically at <http://www.regulations.gov> and in hard copy at EPA Region IX, 75 Hawthorne Street, San Francisco, California. While all documents in the docket are listed in the index, some information may be publicly available only at the hard copy location (e.g., copyrighted material),

and some may not be publicly available in either location (e.g., CBI). To inspect the hard copy materials, please schedule an appointment during normal business hours with the contact listed directly below.

FOR FURTHER INFORMATION CONTACT: Tom Kelly, Air Planning Office (AIR-2), EPA Region IX, (415) 972-3856, kelly.thomasp@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document, the terms “we,” “us,” and “our” refer to the EPA.

TABLE OF CONTENTS:

- I. Background
- II. Public Comments
- III. Final Action
- IV. Statutory and Executive Order Reviews

I. Background

On August 25, 2014 (79 FR 50574), the EPA proposed to determine that the Southeast Desert 1-hour ozone nonattainment area has attained the 1-hour ozone National Ambient Air Quality Standard (NAAQS or “standard”), based on complete, quality-assured and certified ambient air quality data for the 2011 to 2013 monitoring period. The Southeast Desert 1-hour ozone nonattainment area covers the Victor Valley/Barstow region in San Bernardino County, the Coachella Valley region in Riverside County, and the Antelope Valley portion of Los Angeles County (see 40 CFR 81.305 for the precise boundaries of the 1-hour ozone nonattainment area).

Our proposed rule provides background information on the 1-hour ozone standard; the designations and classifications of the Southeast Desert under the Clean Air Act (CAA or “Act”)

for the 1-hour ozone standard; EPA's prior determination that the Southeast Desert failed to attain the 1-hour ozone standard by the 2007 applicable attainment date based on 2005-2007 ozone data; and the recent request by the State of California to make a finding of attainment of the 1-hour ozone standard for the Southeast Desert in light of improved ozone conditions in the area. See 79 FR 50574, at 50575. We also described how we determine whether an area's air quality meets the 1-hour ozone standard; identified the relevant air monitoring agencies in the Southeast Desert and their respective ozone monitoring networks and monitoring network plans; and documented our previous review of the networks and network plans, the agencies' annual certifications of ambient air monitoring data, and our determination of completeness for 2011-2013 data from the eight monitoring sites within the Southeast Desert. See 79 FR 50574, at 50576. Please see our proposed rule for more information concerning these topics.

Our proposed rule included a table of "expected exceedences" for the Southeast Desert nonattainment area. See 79 FR 50574, at 50577. As explained in our proposed rule, an area is considered to have attained the 1-hour ozone standard if there are no violations of the standard, in accordance with 40 CFR 50.9 and based on three consecutive calendar years of complete, quality-assured and certified monitoring data. A violation occurs when the "expected number" of days per calendar year with maximum hourly average concentrations above 0.12 ppm is greater than one (1.0) at any site in the area, when averaged over three consecutive calendar years.¹ An exceedance occurs when the maximum hourly ozone concentration during any day exceeds 0.124 ppm. For more information, please see "National 1-hour primary and secondary ambient

¹ An "expected number" of exceedences is a statistical term that refers to an arithmetic average. An "expected number" of exceedences may be equivalent to the number of observed exceedences plus an increment that accounts for incomplete sampling. *See*, 40 CFR part 50, appendix H. Because, in this context, the term "exceedences" refers to days (during which the daily maximum hourly ozone concentration exceeded 0.124 ppm), the maximum possible number of exceedences in a given year is 365 (or 366 in a leap year).

air quality standards for ozone” (40 CFR 50.9) and “Interpretation of the 1-Hour Primary and Secondary National Ambient Air Quality Standards for Ozone” (40 CFR part 50, appendix H). Based on our review of the monitoring data, and taking into account the extent and reliability of the applicable ozone monitoring network, we proposed to determine that the Southeast Desert has attained the 1-hour ozone standard based on complete, certified and quality-assured data for the 2011-2013 period. In our proposed rule, we indicated that we would review preliminary data for 2014 prior to taking final action. We have now done so and find that preliminary data for 2014, from January through December, for the ozone monitoring sites in the Southeast Desert are consistent with continued attainment.

II. Public Comments

EPA received no comments on the proposed action during the comment period.

III. Final Action

EPA is determining that the Southeast Desert nonattainment area has attained the 1-hour ozone National Ambient Air Quality Standard, based on complete, quality-assured and certified ambient air quality monitoring data for the 2011 to 2013 monitoring period. Preliminary data available for 2014, from January through December, are consistent with continued attainment.

IV. Statutory and Executive Order Reviews

This action makes a determination based on air quality data and does not impose additional requirements beyond those imposed by state law. For that reason, this proposed action:

- Is not a “significant regulatory action” subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);

- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999); is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and,
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because it will not impose substantial direct costs on tribal governments or preempt tribal law.

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take

effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements (see section 307(b)(2)).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Oxides of nitrogen, Ozone, Volatile organic compounds.

Dated: April 6, 2015.

Jared Blumenfeld,
Regional Administrator,
Region IX.

Chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 et seq.

Subpart F — California

2. Section 52.282 is amended by adding paragraph (g) to read as follows:

§ 52.282 Control strategy and regulations: Ozone

* * * * *

(g) *Determination of attainment.* EPA has determined that, as of [**INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER**], the Southeast Desert 1-hour ozone nonattainment area has attained the 1-hour ozone standard, based upon complete, quality-assured and certified ambient air quality monitoring data for 2011-2013.

[FR Doc. 2015-08582 Filed: 4/14/2015 08:45 am; Publication Date: 4/15/2015]